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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,739	07/30/2004	Loring M. Johnson	006979.001258	4738
24239	7590	03/24/2006	EXAMINER	
MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/710,739	Applicant(s) JOHNSON, LORING M.	
	Examiner Andre' L. Jackson	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Here, it is unclear to the Examiner and others with ordinary skill in the art as to how applicant's "spring means is disposed outside of the housing" as claimed. The Examiner is not able to find any support any applicant's specification and/or drawings as to any working component disposed outside of applicant's housing. It is clear to the Examiner in figures 1-4 and applicant's specification that element 12 represents applicant's housing. It is also clear that element 18 as indicated represents a spring means or spring assembly as referred to in applicant's specification as positioned within element 12. Therefore, it is unclear as to how the spring means (spring assembly 18) is disposed outside of the housing. Furthermore, it is to be noted that in applicant's specification, applicant never states a spring means (spring assembly 18) as being outside of the housing. The primary reason is because it is evident that the spring assembly lies within the housing. Lastly, in paragraph 0026 of applicant's specification, element 11 is introduced as a bottom cover of the housing 12. With this said, applicant figure 1 represents element 11 as

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extending from a proximal end (near 15) to a distal end (near 95) which encompasses the spring assembly there-in.

Accordingly, "spring means disposed outside of the housing" is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,666,692 to Toledo. Toledo discloses an adjustable closure comprising;

a housing (a distal dampening section at 34, 36 and a proximal mechanical section at 76) having a first closed end (40) and an open second end (76) and defining an interior cavity including a cylindrical recess spaced from the first end of the housing, a spindle (72) journaled in the housing adjacent the first end of the housing for rotation about an axis, at least a portion of the spindle extending from the housing (Fig. 3) and adapted to be connected to turn with the door; a cam (70) carried about the axis through an arc in a first direction from a by the spindle for rotation with the spindle first angular orientation corresponding to the closed position of the door to a second angular orientation corresponding to an open position of the door and about the axis through an arc in an opposite direction from the second angular orientation to the first

angular orientation, wherein rotation of the cam from the first angular orientation to the second angular orientation corresponds to movement of the door in the opening direction and rotation of the cam from the second angular orientation to the first angular orientation corresponds to movement of the door in the closing direction, a slide assembly (62) including a cam following roller (74) for cooperating with the cam for converting cam into linear movement of the slide rotation of the assembly relative to the housing, a piston (30, 32) having a first end and a second end, the piston slidably disposed in the cylindrical recess, a piston rod (42, 44) connected at one end to the first end of the piston and at the other end to the slide assembly; spring means (48, 50) disposed (between the mechanical section and the dampening section) outside of the housing for urging the piston, the slide assembly and the cam in the door closing direction, the spring means including a spring rod (54) connected at one end to the second end of the piston; first and second annular plugs (38, 39 & 46) disposed in the housing adjacent the ends of the cylindrical recess for slidably sealingly receiving the piston rod and the spring rod, respectively, the first and second annular plugs and piston dividing the cylindrical recess into a first chamber between the first annular plug (46) and the first end (30a, 32a) of the piston and a second chamber between the second annular plug (38, 39) and the second end (30c, 32c) of the piston, passage means (94, 96) defined in the housing for permitting flow of fluid between the cylindrical recess and the space of the cavity defined between the first annular plug and the closed end of the housing in response to reciprocation of the piston in the cylindrical recess, wherein upon rotation of the spindle and cam in the door opening direction the cam operates against the cam following roller for moving the slide assembly toward the first end of the housing and the piston toward the first end of the cylindrical recess and compressing the spring means for storing energy, the spring means urging

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the piston toward the second end of the cylindrical recess for moving the slide assembly toward the second end of the housing and the cam following roller against the cam to rotate the cam and the spindle in the door closing direction.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment of November 23, 2005 have been fully considered but they are not persuasive. Here, on page 7 of the above amendment applicant argues that all of the limitations of applicant's claim is neither taught or suggested by the prior art reference relied upon (Toledo) by the Examiner. In particular, applicant argues that Toledo fails to disclose or suggest a spring means disposed outside of the housing. Claim 1 has been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Thus, the limitation reciting "a spring means disposed outside of the housing" is errant and not given patentable significance with regard to applicant's claim 1 as a whole and treated as such in the previous Action as well as this Action stated above. Thus, claim 1 remains rejected as being unpatentable over Toledo.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

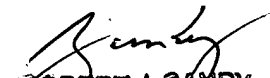
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER